

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**ORDER 97 - 030****NPDES PERMIT NO. CAS0029831****REISSUING WASTE DISCHARGE REQUIREMENTS FOR:**

THE CITIES OF ALAMEDA, ALBANY, BERKELEY, DUBLIN, EMERYVILLE, FREMONT, HAYWARD, LIVERMORE, NEWARK, OAKLAND, PIEDMONT, PLEASANTON, SAN LEANDRO, UNION CITY, ALAMEDA COUNTY (UNINCORPORATED AREA), THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, AND ZONE 7 OF THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, which have joined together to form the ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM

The California Regional Water Quality Control Board, San Francisco Bay Region, (hereinafter referred to as the Regional Board) finds that:

1. The Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, Union City, Alameda County, (Unincorporated Area), Alameda County Flood Control and Water Conservation District, and Zone 7 of the Alameda County Flood Control and Water Conservation District, (hereinafter referred to as the Dischargers) have joined together to form the Alameda Countywide Clean Water Program (hereinafter referred to as the Program) and have submitted a permit application (Report of Waste Discharge), dated April 18, 1996, for re-issuance of waste discharge requirements under the National Pollutant Discharge Elimination System (NPDES) to discharge storm water runoff from storm drains and watercourses within the Dischargers' jurisdictions.
2. The Dischargers are currently subject to NPDES Permit No.CA0029831 issued by Order No. 91-146 on October 16, 1991.
3. The Dischargers each have jurisdiction over and/or maintenance responsibility for their respective municipal separate storm drain systems and/or watercourses in Alameda County. (See attached location and political jurisdiction map.) The discharge consists of the surface runoff generated from various land uses in all the hydrologic subbasins which discharge into watercourses which in turn flow into Central and South San Francisco Bay. The quality and quantity of these discharges varies considerably and is affected by hydrology, geology, land use, season, and sequence and duration of hydrologic event. Pollutants of concern in these discharges are certain heavy metals, sediment from erosion due to anthropogenic activities, petroleum hydrocarbons from sources such as used motor oil, microbial pathogens of domestic sewage origin from illicit discharges, certain pesticides associated with in stream acute toxicity, and other pollutants which may cause aquatic toxicity in the receiving waters.
4. Section 402(p) of the federal Clean Water Act (CWA), as amended by the Water Quality Act of

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4. Section 402(p) of the federal Clean Water Act (CWA), as amended by the Water Quality Act of 1987, requires NPDES permits for storm water discharges from separate municipal storm drain systems, storm water discharges associated with industrial activity (including construction activities), and designated storm water discharges which are considered significant contributors of pollutants to waters of the United States. On November 16, 1990, the United States Environmental Protection Agency (hereinafter US EPA) published regulations (40 CFR Part 122) which prescribe permit application requirements for municipal separate storm drain systems pursuant to Section 402(p) of the CWA.

The application requirements that the Regional Board has determined to be applicable to the Dischargers include submittal of a proposed storm water management plan to reduce the discharge of pollutants in storm water to the maximum extent practicable and to effectively prohibit non-storm water discharges into municipal storm drain systems and watercourses within the Dischargers' jurisdictions.

5. The permit application submitted by the Dischargers includes the Program's Storm Water Management Plan (hereinafter referred to as the Plan), which describes a framework for management of storm water discharges during the term of this permit. The title page, table of contents and Executive Summary of the Plan are attached to this Order. The Plan describes the Program's goals and objectives, legal authorities, institutional arrangements and funding, the annual reporting and program evaluation process, and monitoring strategy.

The chapters of the Plan include the following elements:

- Regulatory Compliance, Planning, and Program Management
  - Focused Watershed Management Approach
  - Monitoring and Special Studies
  - Public Information /Participation
  - Municipal Maintenance Activities
  - New Development and Construction Controls
  - Illicit Discharge Controls
  - Industrial and Commercial Discharge Controls
  - Performance Standards (Appendix B)
6. The Plan and modifications or revisions to the Plan that are approved in accordance with Provision C.3 of this Order, and future fiscal year Program Workplans and Discharger-specific Workplans to be submitted in accordance with the Plan and Provision C.3 of this Order are incorporated into this Order by reference and are an integral and enforceable component of this Order.
  7. Performance Standards, which represent the level of effort required of each of the Dischargers in the Plan, are contained in Appendix B of the Plan. The specification of Performance Standards also simplifies the task of determining if a Discharger is putting forth a level of effort which constitutes compliance with the NPDES permit and the maximum

extent practicable standard.

8. The Program is organized, coordinated, and implemented based upon a Memorandum of Agreement signed by the Dischargers, which defines roles and responsibilities of the Dischargers. The roles and responsibilities of the Dischargers are, in part, as follows:
  - a. The Management Committee, which includes representatives from all of the Dischargers, is the decision making body of the Program. It operates within the budget and policies established by the Dischargers' governing boards and councils to decide matters of budget and policy necessary to implement the Plan, and provides direction to the Program Manager and staff. The Management Committee has established subcommittees to assist in planning and implementation of the Plan, and may add, modify, or delete subcommittees as deemed necessary.
  - b. The Program Director serves as the Chair of the Management Committee and is responsible for implementation of the Program's self-monitoring activities and preparation and submittal of Program components of the Annual Report and Workplans. In acting as the Program's NPDES Permit coordinator, the Program Director does not assume responsibility for the obligations assigned to other Dischargers by this Order.
  - c. Each of the Dischargers is individually responsible for adoption and enforcement of ordinances, implementation of assigned control measures needed to prevent or reduce pollutants in storm water, and providing funds for the capital, operation, and maintenance expenditures necessary to implement such control measures within their jurisdiction. The assigned control measures to be implemented by each Discharger are listed in the Performance Standards in Appendix B of the Plan. Enforcement actions concerning this Order will, wherever possible, be pursued only against the individual Discharger(s) responsible for specific violations of this Order.
9. The Regional Board adopted a revised Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) on June 21, 1995. The State Water Resources Control Board (hereinafter the State Board) and the Office of Administrative Law approved the revised Basin Plan on July 21, and November 13 of 1995, respectively. The Basin Plan identifies beneficial uses and water quality objectives for surface waters in the Region, as well as effluent limitations and discharge prohibitions intended to protect those uses. This Order implements the plans, policies, and provisions of the Board's Basin Plan.
10. The beneficial uses of the Central and South San Francisco Bay, tributary streams and contiguous water bodies, and other water bodies within the drainage basin are listed in the Basin Plan.
11. The Regional Board considers storm water discharges from the urban and developing areas in the San Francisco Bay Region, such as Alameda County, to be significant sources of pollutants in waters of the Region that may be causing or threatening to cause or contribute to

water quality impairment.

12. The San Francisco Estuary Project, established pursuant to CWA Section 320, culminated in June of 1993 with completion of its Comprehensive Conservation and Management Plan (CCMP) for the preservation, restoration, and enhancement of the San Francisco Bay-Delta Estuary. The CCMP includes recommended actions in the areas of aquatic resources, wildlife, wetlands, water use, pollution prevention and reduction, dredging and waterway modification, land use, public involvement and education, and research and monitoring. Recommended actions which may, in part, be addressed through implementation of the Dischargers' Storm Water Management Plan include, but are not limited to, the following:
  - a. Action PO-2.1: Pursue a mass emissions strategy to reduce pollutant discharges into the Estuary from point and nonpoint sources and to address the accumulation of pollutants in estuarine organisms and sediments.
  - b. Action PO-2.4: Improve the management and control of urban runoff from public and private sources.
  - c. Action PO-2.5: Develop control measures to reduce pollutant loadings from energy and transportation systems.
  - d. Action LU-1.1: Local General Plans should incorporate watershed protection plans to protect wetlands and stream environments and reduce pollutants in runoff.
  - e. Action LU-3.1: Prepare and implement Watershed Management Plans that include the following complementary elements: 1) wetlands protection; 2) stream environment protection; and 3) reduction of pollutants in runoff.
  - f. Action LU-3.2: Develop and implement guidelines for site planning and Best Management Practices.
13. It is the Regional Board's intent that this Order shall ensure attainment of applicable water quality objectives and protection of the beneficial uses of receiving waters. This Order therefore includes standard requirements to the effect that discharges shall not cause violations of water quality objectives nor shall they cause certain conditions to occur which create a condition of nuisance or water quality impairment in receiving waters. Accordingly, the Regional Board is requiring that these standard requirements be addressed through the implementation of technically and economically feasible control measures to reduce pollutants in storm water discharges to the maximum extent practicable as provided in Provisions C.1 through C.7 of this Order. Compliance with Provisions C.1 through C.7 is deemed compliance with the requirements of this Order. If these measures, in combination with controls on other point and nonpoint sources of pollutants, do not result in attainment of applicable water quality objectives, the Regional Board will reopen this permit pursuant to Provisions C.1, C.6, and C.7 of this Order to impose additional conditions which require

implementation of additional control measures.

14. The Regional Board considers the Plan to be equivalent to a watershed management plan for the urbanized portions of Alameda County, as the Plan outlines effective and efficient implementation of appropriate control measures for the most important sources of pollutants within the watersheds. In addition, the Plan is branching out into the areas of parks and open space, and a linkage with the Southern Alameda Watershed Management Initiative through the auspices of the Alameda Resource Conservation District will be attempted during this five year period. The watershed management approach involves three components: assessment of the landscape to be addressed, identification of priority pollutant sources to be controlled, and the involvement of all stakeholders in the control of pollutant sources. The Program employs these general components in its evolving program to control urban storm water runoff and non-point pollutant sources in Alameda County.
15. Federal, state, or regional entities within the Dischargers' boundaries, not currently named in this Order, operate storm drain facilities and/or discharge storm water to the storm drains and watercourses covered by this Order. The Dischargers may lack legal jurisdiction over these entities under the state and federal constitutions. Consequently, the Regional Board recognizes that the Dischargers should not be held responsible for such facilities and/or discharges. The California Department of Transportation (Caltrans) is a state agency that is currently, among others, such an entity. The Regional Board issued a separate storm water permit (NPDES Permit No. CAS029998), to Caltrans in August of 1994, and will consider issuing separate NPDES permits for storm water discharges to other federal, state, or regional entities within the Dischargers' boundaries.
16. The action to adopt a NPDES permit is exempt from the provisions of the California Environmental Quality Act; Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code in accordance with Section 13389 of the California Water Code.
17. The Regional Board will notify interested agencies and interested persons of the availability of reports, plans, and schedules, including Annual Reports, Work Plans, Performance Standards, and the Plan, and will provide them with an opportunity for a public hearing and/or an opportunity to submit their written views and recommendations. The Regional Board will consider all comments and may modify the reports, plans, or schedules or may modify this Order in accordance with the NPDES permit regulations. All submittals required by this Order conditioned with acceptance by the Executive Officer will be subject to these notification, comment, and public hearing procedures.
18. The Regional Board has notified the Dischargers and interested agencies and interested persons of its intent to prescribe waste discharge requirements and a NPDES permit for this discharge and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.

19. The Regional Board, at a properly noticed public meeting, heard and considered all comments pertaining to the discharge.
20. It is the intention of the Regional Board that this Order supersede Order No. 91-146.
21. This Order serves as a NPDES permit, pursuant to CWA Section 402, or amendments thereto, and shall become effective ten days after the date of its adoption provided the Regional Administrator, US EPA, Region IX, has no objections.

**IT IS HEREBY ORDERED that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder and the provisions of the Clean Water Act as amended and regulations and guidelines adopted thereunder, shall comply with the following:**

**A. DISCHARGE PROHIBITIONS**

1. The Dischargers shall, within their respective jurisdictions, prohibit the discharge of non-storm water (materials other than storm water) into their storm drain systems and watercourses. NPDES permitted discharges are exempt from this prohibition. Non-polluted discharges are also exempt from this prohibition. Some examples of non-polluted discharges are landscape irrigation runoff which is not polluted with silt, fertilizer, herbicides or pesticides, non-polluted groundwater pumped discharge and once-through non-contact cooling water which has lost chlorine residual. Compliance with this prohibition shall be demonstrated in accordance with Provisions C.1 and C.5 of this Order. Provision C.5 describes a tiered categorization of non-storm water discharges based on potential for pollutant content.
2. The discharge of storm water from a facility or activity that causes or contributes to the violation of Receiving Water Limitations is prohibited.

**B. RECEIVING WATER LIMITATIONS**

1. The discharge shall not cause the following conditions to create a condition of nuisance or to adversely affect beneficial uses of waters of the State:
  - a. Floating, suspended, or deposited macroscopic particulate matter, or foam;
  - b. Bottom deposits or aquatic growths;
  - c. Alteration of temperature, turbidity, or apparent color beyond present natural background levels;

- d. Visible, floating, suspended, or deposited oil or other products of petroleum origin; and/or
  - e. Toxic or deleterious substances present in concentrations or quantities which will cause deleterious effects on aquatic biota, wildlife, or waterfowl, or which render any of these unfit for human consumption either at levels created in the receiving waters or as a result of biological concentration.
2. The discharge shall not cause a violation of any applicable water quality objective for receiving waters. If applicable water quality objectives are adopted and approved by the State Board after the date of the adoption of this Order, the Regional Board may revise and modify this Order. Receiving Water Limitations are based upon beneficial uses, water quality objectives and water quality standards contained in the Basin Plan, and amendments thereto, and on ambient water quality.

The discharge of storm water, or non-storm water, from a municipal storm sewer system for which the Dischargers are responsible, under the terms of this Order shall not cause any of the above conditions to continue or recur in the receiving waters. The Dischargers will not be in violation of these limitations so long as they are in compliance with the following requirements:

- a. If the Executive Officer determines that continuing or recurring exceedance of any Receiving Water Limitation listed above has been caused by discharge from the municipal storm sewer system, or if the discharge causes a violation of any applicable water quality objective for receiving waters, the following steps shall be taken:
  - i. The Executive Officer shall notify the Board of this fact and of subsequent actions as described below.
  - ii. The Executive Officer will evaluate the adequacy of the Dischargers' implementation of the Plan based on the Dischargers' submitted reports. The Executive Officer will determine if implementation of the Plan has a reasonable likelihood of preventing future exceedances of Receiving Water Limitations. If the Executive Officer makes this determination, the Dischargers are required to continue implementing the Plan.
  - iii. If the Executive Officer determines that implementation of the Plan will not have a reasonable likelihood of preventing future exceedances of Receiving Water Limitations, the Dischargers shall, upon notice from the Executive Officer, do the following:
    - (a) The Executive Officer may require the Dischargers to submit a report that includes an evaluation of the relative contribution of the storm water discharges to the exceedance of the Receiving Water Limitation. The report shall address the persistence and the causes of the exceedance, and evaluate, if appropriate, whether the pollutant(s) causing the exceedance(s) can be controlled by the Dischargers.



- (b) The Executive Officer may require the Dischargers to submit a report reviewing the Plan to determine whether it should be revised so there will be a reasonable likelihood of preventing future exceedances of Receiving Water Limitations, or whether revisions to achieve compliance with Receiving Water Limitations cannot be made based on technical feasibility, economic studies, and other pertinent factors. If the report recommends revision of the Plan, the report shall include a work plan to revise the Plan so that it will have a reasonable likelihood of preventing future exceedances of Receiving Water Limitations. If the report concludes that no revisions are necessary to achieve compliance with Receiving Water Limitations, the report shall explain how implementation of the Plan will achieve compliance. If the report determines that revisions cannot be made to achieve compliance with Receiving Water Limitations based on technical feasibility, economic studies, and other pertinent factors, or if the Discharger determines that the pollutant(s) causing the exceedance(s) cannot be controlled by the Dischargers, the Dischargers shall continue to comply with the Plan, shall fully document this determination, and shall make such recommendations, supported by the report documentation, identifying the nature of the actions that may be necessary to achieve future compliance.
- (c) Any economic study may include evaluating the cost of implementing a control measure against its reasonable relationship to the pollution control benefits to be achieved. When required under (b) above, the Dischargers shall implement the work plan and their revised Plan as approved by the Executive Officer.
- (d) The Executive Officer shall review and approve or disapprove the reports required under the preceding provisions in a timely fashion. The reports shall be submitted to the Executive Officer within 60 days of a request from the Executive Officer. Extension of this submittal deadline with cause will require the Executive Officers's approval. So long as the Dischargers have complied with the procedures set forth in the preceding provisions, they do not have to repeat the procedure for continuing or recurring exceedances of the same Receiving Water Limitation. As appropriate, any determination under this part or revisions to the Plan may be considered by the Regional Board in a public meeting.

## C. PROVISIONS

1. The Dischargers shall comply with Discharge Prohibition A.1 and A.2 and Receiving Water Limitations B.1 and B.2 through the timely implementation of control measures and other actions to reduce pollutants in the discharge in accordance with Provisions C.2 through C.7 and the Plan and any of its modifications, revisions, or amendments developed pursuant to this Order. If adverse impacts to beneficial uses of receiving waters persist following implementation of Provisions C.2 through C.7 and the Plan, this Order will be reopened to require the Dischargers to identify, assign, and implement additional control measures and

revise the Plan, forthwith, to ensure compliance with Discharge Prohibitions A.1 and A.2 and Receiving Water Limitations B.1 and B.2.

## **2. Storm Water Management Plan and Performance Standards**

- a. The Dischargers shall implement control measures and best management practices to reduce pollutants in storm water discharges to the maximum extent practicable. The Plan shall serve as the framework for identification, assignment, and implementation of such control measures. The Dischargers shall begin implementing forthwith the Plan and shall subsequently demonstrate its effectiveness and provide for necessary and appropriate revisions, modifications, and improvements to reduce pollutants in storm water discharges to the maximum extent practicable and as required by Provisions C.1 through C.7 of this Order.
- b. The Plan incorporates Performance Standards developed by the Dischargers. Performance Standards are defined as the level of implementation necessary to demonstrate the reduction of pollutants in storm water to the maximum extent practicable.

## **3. Annual Reports and Workplans**

- a. The Dischargers shall submit an Annual Report, by September 15 of each year, documenting the status of the Program's and the Dischargers' activities, including the results of a qualitative field level assessment of activities implemented by the Dischargers, and the performance of tasks contained in the Plan.

The Annual Report shall include a compilation of deliverables and milestones completed as described in the Plan. In each Annual Report, the Dischargers shall propose pertinent updates, improvements, or revisions to the Plan, which shall be deemed to be incorporated into this Order unless disapproved of by the Executive Officer or acted on in accordance with Provision C.6.

As part of the Annual Report process, each of the Dischargers shall conduct an overall evaluation of the effectiveness of its applicable activities described in the Plan. Direct and indirect measures of effectiveness may include, but are not limited to, conformance with established Performance Standards, quantitative monitoring to assess the effectiveness of control measures, measurements or estimates of pollutant load reductions, detailed accounting of Program accomplishments, funds expended, or staff hours utilized. Methods to improve effectiveness in the implementation of tasks and activities including development of new, or modification of existing Performance Standards shall be identified where appropriate.

- b. The Dischargers shall submit a Mid-Fiscal Year Report and draft Workplans for the Program; and Industrial Inspection and Illicit Discharge Survey Workplans for each Discharger by March 15. The deadline for Discharger-specific Workplan submittal for 1997 only shall be May 1, 1997. The Executive Officer may require Discharger-specific Workplans for other elements of the Plan.

The Workplans shall consider the status of implementation of current year activities and actions of the Dischargers, problems encountered, and proposed solutions, and shall address any comments received from the Executive Officer on their previous year Annual Report. The Workplans shall include clearly defined tasks, responsibilities, and schedules for implementation of Program and Discharger-specific actions for the next fiscal year. The Workplans should also consider development of new, or modification of existing Performance Standards in accordance with Provision C.2. and alternative monitoring activities as required in Provision C.4.

The Program Workplans and Discharger-specific Workplans shall be deemed to be final and incorporated into the Plan and this Order as of July 1 of each year unless determined to be unacceptable by the Executive Officer. The Dischargers shall address any comments or conditions of acceptability received from the Executive Officer on their draft Workplans prior to the submission of their Annual Report on September 15 of each year, or at an earlier date if so specified by the Executive Officer, at which time the Workplans shall be deemed to be incorporated into the Plan and this Order unless disapproved of by the Executive Officer.

#### **4. Monitoring Program**

The Dischargers shall submit by August 1 of each year, an Annual Monitoring Program Plan acceptable to the Executive Officer, that supports the development and implementation and assesses the effectiveness of the Plan. The Monitoring Program Plans shall be designed to achieve the following objectives and objectives presented in the Storm Water Management Plan, (however, every objective may not need to be addressed in every year):

- Characterization of representative drainage areas and storm water discharges, including land use characteristics, pollutant concentrations, and mass loadings;
- Assessment of existing or potential adverse impacts on beneficial uses caused by pollutants of concern in storm water discharges, including an evaluation of representative receiving waters;
- Identification of potential sources of pollutants of concern found in storm water discharges; and

- Evaluation of the effectiveness of representative storm water pollution prevention or control measures.

The Monitoring Program shall include the following:

- a. Provisions for conducting and reporting the results of special studies conducted by the Program or Dischargers which are designed to determine the effectiveness of best management practices or control measures, define a Performance Standard in accordance with Provision C.2, or assess the adverse impact of a pollutant or pollutants on beneficial uses.
- b. Provisions for conducting watershed monitoring activities including; identification of major sources of pollutants of concern; evaluation of the effectiveness of control measures and best management practices; and use of physical, chemical, and biological parameters and indicators as appropriate; and
- c. Identification and justification of representative sampling locations, frequencies and methods, suite of pollutants to be analyzed, analytical methods, and quality assurance procedures. Alternative monitoring methods in place of these (e.g., special projects, financial participation in regional, state, or national special projects or research, literature review, visual observations, use of indicator parameters, recognition and reliance on special studies conducted by other programs, etc.) may be proposed with justification. Such proposed alternative monitoring methods shall be included as a component of the Workplans as required in Provision C.3.

## **5. Non-Storm Water Discharges**

### **a. Exempted Discharges**

In carrying out Discharge Prohibition A.1 of this Order, the following non-storm water discharges need not be prohibited unless they are identified by the Dischargers or the Executive Officer as sources of pollutants to receiving waters:

- i. flows from riparian habitats or wetlands;
- ii. diverted stream flows;
- iii. springs;
- iv. rising ground waters; and
- v. uncontaminated groundwater infiltration.

If the any of the above categories of discharges, or sources of such discharges, are identified as sources of pollutants to receiving waters, then such categories or sources

shall be addressed as conditionally exempted discharges in accordance with Provision C.5.b.

b. Conditionally Exempted Discharges

The following non-storm water discharges need not be prohibited if they are either identified by the Dischargers or the Executive Officer as not being sources of pollutants to receiving waters or if appropriate control measures to minimize the adverse impacts of such sources are developed and implemented under the Plan in accordance with Provision C.5.c.:

- i. uncontaminated pumped groundwater;
- ii. foundation drains;
- iii. water from crawl space pumps;
- iv. footing drains;
- v. air conditioning condensate;
- vi. irrigation water;
- vii. landscape irrigation;
- viii. lawn or garden watering;
- ix. planned and unplanned discharges from potable water sources;
- x. water line and hydrant flushing;
- xi. individual residential car washing; and
- xii. discharges or flows from emergency fire fighting activities.

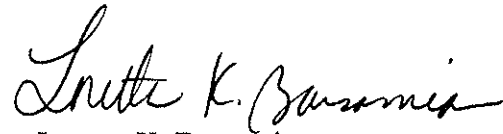
- c. The Dischargers shall identify and describe the categories of discharges b.i through b.xii which they wish to exempt from Prohibition A.1 in periodic submissions to the Executive Officer. For each such category, the Dischargers shall identify and describe as necessary and appropriate to the category either documentation that the discharges are not sources of pollutants to receiving waters or circumstances in which they are not found to be sources of pollutants to receiving waters. Otherwise, the Dischargers shall describe control measures to reduce pollutants to the maximum extent practicable and minimize the adverse impacts of such sources, procedures and Performance Standards for their implementation, procedures for notifying the Regional Board of these discharges, and procedures for monitoring and record management. Such submissions shall be deemed to be incorporated into the Plan unless disapproved by the Executive Officer or acted on in accordance with Provision C.6 and the NPDES permit regulations.

d. Permit Authorization for Exempted Discharges

- i. Discharges of non-storm water from sources owned or operated by the Dischargers are authorized and permitted by this Order, if they are in accordance with the conditions of this provision and the Plan.

- ii. The Regional Board may require dischargers of non-storm water other than the Dischargers to apply for and obtain coverage under a NPDES permit and comply with the control measures developed by the Dischargers pursuant to Provision C.5. Non-storm water discharges that are in compliance with such control measures may be accepted by the Dischargers and are not subject to Prohibition A.
  - iii. The Dischargers may propose, as part of their annual updates to the Plan under Provision C.3 of this Order, additional categories of non-storm water discharges to be included in the exemption to Discharge Prohibition A. Such proposals are subject to approval by the Regional Board in accordance with NPDES permit regulations.
6. It is anticipated that the Plan may need to be modified, revised, or amended from time to time to respond to changed conditions and to incorporate more effective approaches to pollutant control. Requests for changes may be initiated by the Executive Officer or by the Dischargers. Minor changes may be made with the Executive Officer's approval and will be brought to the Regional Board as information items and the Dischargers and interested parties will be notified accordingly. If proposed changes imply a major revision of the Program, the Executive Officer shall bring such changes before the Regional Board as permit amendments and notify the Dischargers and interested parties accordingly.
7. This Order may be modified, or alternatively, revoked or reissued, prior to the expiration date as follows:
  - a. to address significant changed conditions identified in the technical reports required by the Regional Board which were unknown at the time of the issuance of this Order;
  - b. to incorporate applicable requirements of statewide water quality control plans adopted by the State Board or amendments to the Basin Plan approved by the State Board; or
  - c. to comply with any applicable requirements, guidelines, or regulations issued or approved under Section 402(p) of the CWA, if the requirement, guideline, or regulation so issued or approved contains different conditions or additional requirements not provided for in this Order. The Order as modified or reissued under this paragraph shall also contain any other requirements of the CWA then applicable.
8. Each of the Dischargers shall comply with all parts of the Standard Provisions contained in Appendix A of this Order.
9. This Order expires on February 19, 2002. The Dischargers must file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, not later than 180 days in advance of such date as application for reissuance of waste discharge requirements.
10. Order No. 91-146 is hereby rescinded.

I, Loretta K. Barsamian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on February 19, 1997.



Loretta K. Barsamian  
Executive Officer

APPENDIX A - STANDARD PROVISIONS

ATTACHMENTS - Location and Political Jurisdiction Map

Storm Water Management Plan - Title Page, Table of Contents and Executive Summary (Regional Board Members will receive a complete copy of the most recent revision of the Plan)

## **APPENDIX A**

### **STANDARD PROVISIONS**

#### **1. Duty to Comply**

The Dischargers must comply with all of the conditions of this Permit. Any permit noncompliance constitutes a violation of the Federal Clean Water Act (CWA) and California's Porter-Cologne Water Quality Control Act (Water Code) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

#### **2. Permit Actions**

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Dischargers for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this Permit, this Permit shall be modified, or revoked and reissued to conform to the toxic effluent standard or prohibition, and the Dischargers so notified.

#### **3. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for the Dischargers in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit.

#### **4. Duty to Mitigate**

The Dischargers shall take all responsible steps to minimize or prevent any discharge in violation of this Permit which has a reasonable likelihood of adversely affecting human health or the environment.

#### **5. Proper Operation and Maintenance**

The Dischargers shall at all times properly operate and maintain any facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Dischargers to achieve compliance with the conditions of this Permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance



also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance may require the operation of backup or auxiliary facilities or similar systems, installed by the Dischargers when necessary to achieve compliance with the conditions of this Permit.

#### 6. Property Rights

This Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

#### 7. Duty to Provide Information

The Dischargers shall furnish the Regional Board, State Board, USEPA, or local storm water management agency within a reasonable time specified by the agencies, any requested information to determine compliance with this Permit. The Dischargers shall also furnish, upon request, copies of records required to be kept by this Permit.

#### 8. Inspection and Entry

The Dischargers shall allow the Regional Board, State Board, and USEPA, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the Dischargers' premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this Permit;
- b. Have access to and copy at reasonable times, any records that must be kept under the conditions of this Permit; and
- c. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) that are related to or may impact storm water discharge.
- d. Sample or monitor at reasonable times for the purpose of ensuring permit compliance.

#### 9. Signatory Requirements

All reports, certification, or other information required by the Permit or requested by the Regional Board, State Board, USEPA shall be signed by a principal executive officer or by a duly authorized representative. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described above and retained as part of the Storm Water Management Plan.

- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company.
- c. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be reported to the Regional Board and attached to the Storm Water Management Plan prior to submittal of any reports, certifications, or information signed by the authorized representative.

#### 10. Certification

Any person signing documents under Provision 9 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### 11. Reporting Requirements

- a. **Planned changes:** The Dischargers shall give written notice to the Regional Board as soon as possible of any planned physical alteration or additions to its right-of-way and facilities, or change in its Storm Water Management Plan. Notice is required under this provision only when the alteration, addition, or change could significantly change the nature or increase the quantity of pollutants discharged.
- b. **Anticipated noncompliance:** The Dischargers will give advance notice to the Regional Board of any planned changes in its right-of-way and facilities, Storm Water Management Plan, or an activity which may result in noncompliance with permit requirements.
- c. **Noncompliance reporting:** The Dischargers shall report any noncompliance at the time reports are submitted. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

#### 12. Oil and Hazardous Substance Liability

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the Dischargers from any responsibilities, liabilities, or penalties to which the Dischargers are or may be subject under Section 311 of the CWA.

13. Severability

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Permit shall not be affected thereby.

14. Penalties for Violations of Permit Conditions.

- a. Section 309 of the CWA provides significant penalties for any person who violates a permit condition implementing Sections 301, 302, 306, 307 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any such section in a permit issued under Section 402. Any person who violates any permit condition of this permit is subject to a civil penalty not to exceed \$25,000 per day of such violation, as well as any other appropriate sanction provided by Section 309 of the CWA.
- b. The Water Code also provides for civil and criminal penalties, in some cases greater than those under the CWA.